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# WAGANAKISING ODAWAK STATUTE

## MARRIAGE

### SECTION I. GENERAL

A. Short title. This Statute shall be known and may be cited as the Marriage Act of 2006.

B. Purpose. The purpose of this act is to govern the making of marriages under Tribal law.

C. Definitions.

1. “Adult” means a person eighteen (18) years of age or older.

2. “Indian” means a member of the Little Traverse Bay Bands of Odawa Indians, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person within the Tribe’s territory as defined in the Tribe’s Constitution who is recognized by the community as an Indian, including a Canadian Indian or Alaska native.

3. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

4. “Marriage” means the legal and voluntary union of one man and one woman, to the exclusion of all others.

5. “Marriage Clerk” means the Little Traverse Bay Bands of Odawa Indians staff person responsible for filing and maintaining records under this Statute.

6. “Territory” means the territory of the Tribe as defined in the Tribe’s Constitution.

7. “Tribal Court” means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians as defined in the LTBB Constitution.

### SECTION II. MARRIAGE AND THE CAPACITY TO MARRY

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1 **A.** Marriage as a civil contract. To be valid, and for purposes of this law, marriage is  
2 a civil contract, to which the consent of parties capable of making it is necessary.  
3 Consent alone will not constitute a marriage. A marriage relies upon the issuance of a  
4 license, a ceremony solemnizing the marriage, and the issuance of a marriage certificate.  
5

6 **B.** Capacity to consent. A person seeking to be married must fulfill each of the  
7 following requirements:  
8

- 9 1. Freely consent to the marriage and have the mental capacity to marry;
- 10 2. Be an enrolled LTBB Citizen and domiciled within Tribal territory, or a  
11 person who consents to the civil jurisdiction of the Tribe;
- 12 3. Be at least eighteen (18) years of age or older as evidenced by a birth  
13 certificate, be at least sixteen (16) years of age as evidenced by a birth certificate  
14 with the consent of a parent or legal guardian, which consent must be notarized,  
15 or has been emancipated by a court of competent jurisdiction;
- 16 4. Not have an existing spouse;
- 17 5. Not be blood relatives to each other in any of the following degrees:  
18
  - 19 a. Parent and child;
  - 20 b. Grandparent and grandchild;
  - 21 c. Brother and sister, or half-brother and half-sister;
  - 22 d. Uncle and niece, or aunt and nephew; or
  - 23 e. Cousins in the first degree.

24 **C.** Recordkeeping of applications for marriage and marriage licenses. All  
25 applications for marriage licenses and copies of all marriage licenses issued shall be filed  
26 with the Marriage Clerk and maintained as permanent records of the Tribe.  
27  
28

### 29 **SECTION III. MARRIAGE LICENSES**

30 **A.** Application for Marriage License. All persons wishing to be married in  
31 accordance with this act shall obtain a marriage license from the Marriage Clerk. The  
32 application to obtain a marriage license shall be in the form of an affidavit and shall  
33 contain the following information for each person:  
34

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- 1
- 2       **1.**     Full legal name, including last name before first marriage, if previously
- 3 married;
- 4
- 5       **2.**     Home mailing and street address,
- 6
- 7       **3.**     Age;
- 8
- 9       **4.**     Sex;
- 10
- 11       **5.**     Tribal affiliation, if any;
- 12
- 13       **6.**     Present age and date and place of birth;
- 14
- 15       **7.**     If either party was previously married, his or her name, and the date,
- 16 place, and Court in which the marriage was dissolved or declared invalid or the
- 17 date and Place of death of the former spouse;
- 18
- 19       **8.**     The names of each person's parents and the place of birth for each parent,
- 20 if known. For each person's mother, the mother's name before first marriage
- 21 shall be identified, if known;
- 22
- 23       **9.**     If either person is a minor, the name and address of the parents, adoptive
- 24 parent, or guardian of each party; or if emancipated, certified copies of papers
- 25 granting emancipation;
- 26
- 27       **10.**    Whether the parties are related to each other and, if so, their relationship;
- 28
- 29       **11.**    The name and date of birth of any child of which both parties are parents,
- 30 born before the making of the application, unless their parental rights and the
- 31 parent and child relationship with respect to the child have been terminated;
- 32
- 33       **12.**    If either person is not an enrolled Tribal Citizen or does not reside within
- 34 the Tribe's Territory, a statement that such person consents to the civil
- 35 jurisdiction of the Tribe.
- 36
- 37    **B.**     Authority of Marriage Clerk to issue marriage licenses.
- 38
- 39       **1.**     A Marriage Clerk shall have the power to issue a marriage license where
- 40 each of the parties is either an enrolled Tribal Citizen, a resident of the Tribe's
- 41 Territory, or a person who consents to the civil jurisdiction of the Tribe.
- 42
- 43       **2.**     A Marriage Clerk shall issue a marriage license with in three (3) working

1 days from the date that the applicants submit the following:

- 2
- 3 a. a properly-completed application for a marriage license on a form
- 4 prescribed by the Marriage Clerk;
- 5
- 6 b. payment of a license fee not to exceed \$25.00; and
- 7
- 8 c. verification by the Marriage Clerk that each of the parties is an
- 9 enrolled Tribal Citizen, a resident of the Tribe's Territory, or a person who
- 10 consents to the civil jurisdiction of the Tribe.
- 11

12 **C. Validity of License.** A marriage license shall be valid for thirty (30) days from

13 the date of issuance.

14

#### 15 **SECTION IV SOLEMNIZATION OF MARRIAGE**

16

17 **A. Qualification to perform marriages.**

18

19

20 **1.** The following persons shall be qualified to perform marriages under this

21 Statute:

- 22
- 23 a. A medicine person or traditional spiritual leader;
- 24
- 25 b. Clergymen duly designated by the governing body of his or her
- 26 faith as having the authority to perform marriages;
- 27
- 28 c. A Tribal Court Judge of the Tribal Court or Justice of the Tribal
- 29 Court of Appeals;
- 30
- 31 d. The Tribal Chairperson;
- 32
- 33 e. A Tribal Judge of a Court of another federally recognized Tribe
- 34 who is authorized by Tribal law to perform marriages; and
- 35
- 36 f. Any person who is deemed qualified by the persons being married.
- 37

38 **B. Permissible location.** A marriage performed in accordance with this act shall be

39 solemnized at any location.

40

41 **C. Examination of marriage license.** Prior to the marriage ceremony, the person

42 performing the ceremony shall review the marriage license and determine that the

43 persons seeking to be married are the persons named on the license. For that purpose, the

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1 person performing the ceremony may administer oaths and examine the identification of  
2 the persons seeking to be married.

3  
4 **D.** Marriage ceremony. A marriage ceremony performed under this act need not take  
5 any particular form, but the persons seeking to be married must declare in the presence of  
6 the person performing the ceremony, and in the presence of two adult witnesses, that they  
7 receive each other as spouses.

8  
9 **E.** Completion of License. After the ceremony, the person who performed the  
10 marriage ceremony shall sign and endorse the marriage license with a statement that shall  
11 include their name, address, and title; the time and place of the ceremony; and the names  
12 and places of residence of two witnesses. The two witnesses shall also sign the marriage  
13 license.

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16 **SECTION V PROCEDURE FOR RECOGNITION OF MARRIAGES**  
17 **AFTER SOLEMNIZATION**  
18

19 **A.** Return of fully-executed marriage license to the Marriage Clerk. Following the  
20 marriage ceremony, the fully executed marriage license shall be returned to the Marriage  
21 Clerk within seven (7) days.

22  
23 **B.** Endorsement of marriage license by Marriage Clerk. The Marriage Clerk must  
24 endorse upon each copy its date of receipt.

25  
26 **C.** Marriage Clerk issuance of marriage certificate. Upon receipt of a fully-executed  
27 marriage license and a copy of the marriage license application, the Marriage Clerk must  
28 examine the application, the license, and the signatures of the witnesses and the person  
29 performing the marriage to ensure that the information appearing is complete and that the  
30 marriage was performed in accordance with the provisions of the license. Upon a  
31 determination that the application, the license, and the signatures are in proper form, and  
32 that there has been compliance with the terms of the license, the Marriage Clerk shall  
33 endorse its approval upon the license, shall cause a certificate of marriage to be issued,  
34 and deliver a copy of the marriage license to the persons for whom it was issued.

35  
36 **D.** Storage of marriage certificate records. The Marriage Clerk shall file the  
37 certificate of marriage together with the application for marriage license and the marriage  
38 license with the permanent records of the Tribe.

39  
40 **E.** Obtaining certified copies of marriage certificate. Should the parties to any  
41 marriage performed under the auspices of these provisions desire that a marriage  
42 certificate be filed or recorded in another jurisdiction, they may obtain certified copies  
43 from the Marriage Clerk at a fee not to exceed \$25.00.

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3 **SECTION VI                    RECOGNITION OF FOREIGN MARRIAGES,**  
4 **AFFIRMANCE OF PAST TRIBAL COURT MARRIAGES**  
5

6 **A.** Recognition of foreign marriages. The Little Traverse Bay Bands of Odawa  
7 Indians shall recognize as valid and binding any marriage formalized or solemnized in  
8 compliance with the laws of the place of formalization or solemnization, except that a  
9 marriage contract entered into between individuals of the same sex is not deemed valid in  
10 this Tribe.

11  
12 **B.** Prior Tribal Court Marriages. The Little Traverse Bay Bands of Odawa Indians  
13 affirms the validity and binding nature of all marriages performed by a member of the  
14 Tribal Judiciary prior to the effective date of this Statute.  
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17 **SECTION VII                SEVERABILITY**  
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19 If any section or provision of this Statute, or amendment made by this Statute, is  
20 found invalid, the remaining sections or provisions of this Statute and amendments made  
21 by this Statute shall continue in full force and effect.  
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24 **SECTION VIII            EFFECTIVE DATE**  
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26 Effective upon signature of the Executive or 30 days from Tribal Council  
27 approval which ever comes first or if the Executive vetoes the legislation, then upon  
28 Tribal Council override of the veto.  
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35 **CERTIFICATION**  
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